PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P14079-oll	FOR FURTHER ACTION	See Form PCT/IPEA/416

International application No. PCT/EP2005/050701	International filing date (day/month/year) 17.02.2005	Priority date (day/month/year) 10.03.2004

International Patent Classification (IPC) or national classification and IPC
INV. G06F9/445

Applicant
SONY ERICSSON MOBILE COMMUNICATIONS AB

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

   a. ☒ *sent to the applicant and to the International Bureau)* a total of 4 sheets, as follows:

      ☒ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

      ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

   b. ☐ *(sent to the International Bureau only)* a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

   ☒ Box No. I   Basis of the report
   ☐ Box No. II   Priority
   ☐ Box No. III   Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
   ☐ Box No. IV   Lack of unity of invention
   ☒ Box No. V   Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
   ☐ Box No. VI   Certain documents cited
   ☐ Box No. VII   Certain defects in the international application
   ☐ Box No. VIII   Certain observations on the international application

Date of submission of the demand 07.07.2006	Date of completion of this report 31.10.2006

Name and mailing address of the International preliminary examining authority: European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer Bijn, Koen Telephone No. +31 70 340-4472

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

Box No. I   Basis of the report

1. With regard to the **language**, this report is based on

    ☒ the international application in the language in which it was filed

    ☐ a translation of the international application into , which is the language
    of a translation furnished for the purposes of:

    　　☐ international search (under Rules 12.3(a) and 23.1(b))
    　　☐ publication of the international application (under Rule 12.4(a))
    　　☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

    Description, Pages

    1-11　　　　　　　　　　　　as originally filed

    Claims, Numbers

    1-10　　　　　　　　　　　　filed with the demand

    Drawings, Figures

    1-5　　　　　　　　　　　　as originally filed

    ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:
    　　☐ the description, pages
    　　☐ the claims, Nos.
    　　☐ the drawings, sheets/figs
    　　☐ the sequence listing *(specify)*:
    　　☐ any table(s) related to sequence listing *(specify)*:

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
    　　☐ the description, pages
    　　☐ the claims, Nos.
    　　☐ the drawings, sheets/figs
    　　☐ the sequence listing *(specify)*:
    　　☐ any table(s) related to sequence listing *(specify)*:

    * *If item 4 applies, some or all of these sheets may be marked "superseded."*

Box No. V   Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	2,3,6,8,9
	No:	Claims	1,4,5,7,10
Inventive step (IS)	Yes:	Claims	
	No:	Claims	2,3,6,8,9
Industrial applicability (IA)	Yes:	Claims	1-10
	No:	Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

The following documents are referred to in this Report:
D2: US2004/0040020 (Xuguang Yang) 26 February 2004;
D3: US2002/0188814 (Kenji Saito et al) 12 December 2002.

The present application does not meet the requirements of Article 33(1) PCT, because the subject-matter of **claims 1, 4, 5, 7, 10** is not novel in the sense of Article 33(2) and Rule 64 PCT.

Document D2 discloses a method for updating software present in a first version in a device *(see [0008], [0017])*, by receiving and executing a delta file for upgrading said first version to a second version *(see [0026])*, which software is divided and stored in a number of memory blocks defined in an address space of a physical memory *(see [0025] & Fig. 2)* in the device, comprising the steps of:
* defining an extra memory block *(Backup bank, bubble ~ see Fig. 2)* associated with said number of memory blocks, initially being placed before a first memory block located at one end of the memory space *(see [0029]-[0030])*;

* erasing said extra memory block;
* writing updated data for the first memory block on said extra memory block;
* moving the extra memory block one block forward;
* processing all of said number of memory blocks one by one by erasing said extra memory block, writing updated data for the memory block adjacent to and after the extra memory block on the extra memory block, moving said extra memory block forward one block at a time
    until all of said number of memory blocks have ben shifted one step in the address space.
(see [0008], [0031])

The subject matter of **claim 1** is therefore not novel.

The subject-matter of claim 1 is also not novel in respect of document D3 *(see abstract, [0065]-[0074] & Figs. 7(a), 7(b), 8)*.
Document D3 further discloses modifying a start address within said address space in a boot code for said software, dependent on the moving of data between said memory

blocks {when logical sector number 0 is rewritten, physical sector number 0 may be erased and may become an additional sector (i.e., physical sector number 0 is registered in additional sector management list 50 as an additional sector), and the additional sector at physical sector number 64 may be assigned as logical sector number 0 (i.e., logical sector number 64 is erased from additional sector management list 50 and in address conversion table 20, the physical sector number corresponding to logical sector number 0 may become 64) ~ see [0100] & Fig. 2 & [0068]}.

The subject matter of **claim 4** is therefore not novel.

The technical features of claims 5, 7, 10 correspond to the method steps of claims 1, 4. The subject-matter of **claims 5, 7, 10** is therefore not considered to be novel either.

The present application does not meet the requirements of Article 33(1) PCT, because the subject-matter of **claims 2, 3, 6, 8, 9** does not involve an inventive step in the sense of Article 33(3) and Rule 65 PCT.

Document D2 describes a procedure to upgrade a first code version, having the bubble located in the first physical memory bank (non-volatile memory 211 ~ see Fig. 2), to a seconde code version, having the bubble located in the Backup bank. To the person skilled in the art, it would be obvious to re-apply the aforementioned procedure in reverse order to the second code version in order to arrive to a third code version having the bubble located in the first physical memory bank.

Therefore, the subject-matter of **claim 2** does not involve an inventive step.

Document D2 describes an update network 105 for dispensing an update package to an electronic device 107, whereby the update package is generated by generator 131 and stored in update store 129 for subsequent retrieval by the electronic device 107 via device server 127 (see [0023]-[0026] & Fig. 1).
The subject-matter of claim 3 differs from what is disclosed in document D2 in that the delta file (update package) is adapted to the location of the extra block in the address space, wherein a first and a second delta file are adapted to upgrade the software in one order and in a reversed order respectively.

However, to the person skilled in the art, it would be obvious to take into account the location of the extra block in the address space in order to retrieve the correct update package.

Therefore, the subject-matter of **claim 3** does not involve an inventive step.

Dependent **claim 6** do not appear to contain any additional features which, in combination with the features of any claim on which they depend, could form the basis for a claim that involves an inventive step.

The technical features of claims 8, 9 correspond with the method steps of claims 2, 3. Therefore, the subject-matter of **claims 8, 9** does not involve an inventive step either.
□